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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,096	08/28/2001	Hiroaki Taniguchi	SHC0141	5776

7590 11/14/2006
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EXAMINER

COLE, ELIZABETH M

ART UNIT PAPER NUMBER

1771

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/941,096

Applicant(s)

TANIGUCHI, HIROAKI

Examiner

Elizabeth M. Cole

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the specification does not provide antecedent basis for the limitation that the thermoplastic synthetic resin film is welded to the thermoplastic synthetic resin fibrous sheet at and along the apex of said bulgy structural zones. The drawings clearly show this feature so the specification can be amended to describe what is shown in the drawings in order to provide antecedent basis for the limitation.

2. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the limitation that each bulgy structural zone is substantially uniformly spaced apart from the plurality of bulgy zones renders the claims vague and indefinite. It is not clear how the each bulgy structural zone can be uniformly spaced apart from the plurality of bulgy zones. It seems that Applicant intends to claim that each bulgy structural zone is uniformly spaced from each adjacent bulgy structural zone. Also, in claim 6, it appears that this claim should depend from claim 1 not claim 11.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4, 6-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over McFarren, U.S. Patent No. 3,575,764. McFarren teaches a composite sheet

comprising a thermoplastic polymer layer which is heat bonded to a nonwoven fabric. See examples. The thermoplastic polymer layer may be embossed prior to heat bonding with the fabric. See col. 2, lines 33-62. The polymer may be a polyester or polyamide. See col. 2, lines 12-16. The film may be breathable but is not permeable to fluids. The nonwoven fabric may be placed on either or both faces of the embossed film. See col. 2, lines 60-63. Therefore, at least when the nonwoven fabric is placed on both faces, the protuberances formed by the embossing would be directed toward the nonwoven fabric, and the fabric would be bonded to the embossed sheet at the apex of each of the embossments, wherein the embossments correspond to the claimed bulgy zones. McFarren differs from the claimed invention because while McFarren teaches a plurality of different embossing patterns, which can be disposed in parallel and are uniform, McFarren does not teach the claimed shapes and sizes of the bulgy zones. However, since McFarren does teach that various embossed configurations can be used in order to form a film with an overall repeating pattern of thickened areas, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected the particular pattern chosen through the process of routine experimentation in order to arrive a fabric which were strongly bonded, flexible and had a good drape and soft hand. See col. 1, lines 32-35; col. 1, lines 40-47; col. 3, lines 17-21. It further would have been obvious to have selected the breathability of the film through the process of routine experimentation in order to arrive at a film which offered the optimum comfort to the user or wearer of the fabric.

5. Claims 1-19 rejected under 35 U.S.C. 103(a) as being unpatentable over McFarren as applied to claims 1, 4, 6-19 above, and further in view of McCormack et al, U.S. Patent No. 5,883,769. McFarren discloses a composite fabric comprising a thermoplastic film layer and a nonwoven fabric as set forth above. McFarren differs from the claimed invention because McFarren does not disclose that the fabric or film layer is elastic. McCormack teaches a laminate of two or more layers, wherein one of the layers may be elastic and wherein one of the layers may comprise a thermoplastic film and one of the layers comprises a nonwoven fabric. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed elastic components for either the film or fabric layer in McFarren, motivated by the teaching of McCormack that elastic layers can be used as either the film or fabric layer in a composite fabric, with the expectation that this would enhance the flexibility of the fabric by rendering it elastic.

6. Applicant's arguments have been fully considered but are moot in view of the new grounds of rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

Art Unit: 1771

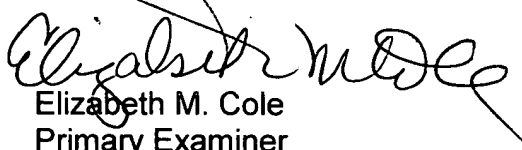
mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.


Elizabeth M. Cole
Primary Examiner
Art Unit 1771

e.m.c